IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 9.8.2006

Rajdeep

...Appellant

versus

Teja Singh and others.

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.

Present: Mr.G.S.Bawa, Advocate
for the appellant

UMA NATH SINGH, J. (ORAL)

This FAO by the claimant arises out of an award dated 15.10.1990 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Sirsa, in Claim Petition No.16 of 1989 in respect of an accident, wherein the claimant, a 16 years' old boy, is said to have suffered 55% disability on account of injury to his leg.

It appears that the accident took place on 10.7.1989 at about 6.00 AM, when the claimant with his father was proceeding on a scooter towards Dabwali from his village Raghuana and the offending vehicle, being truck/tanker (No.HRN-4477), said to be driven rashly and negligently by the driver, struck against the scooter. It appears that father of the claimant died, whereas the claimant was lodged in the hospital for treatment. The offending vehicle was found to be rash and negligent in driving. It also appears that the appellant had suffered multiple injuries and towards proving medical treatment, Major Singh (PW5), Jonson William (PW6), Dr.M.R.Mittal (PW7) and Dr.Atul Sarin (PW8) were produced in

the witness box. MLR (Ex.PW7/1) was also placed on record and proved. The injury located on the body was found to be grievous, having a fracture of right femur. As regards the quantum of compensation, Smt.Gurdev Kaur, mother of the claimant, appeared in the witness box. According to her, she had spent Rs.40,000/- on medical treatment of the claimant. However, from the documents placed on record, total expenses incurred towards medical treatment was found to be of Rs.21,252/-. Moreover, a sum of Rs.5,000/- was also granted, apart from Rs.21,252/-, in respect of certain medical bills, which were not even proved by the claimant. Thus, towards medical expenses, an amount of Rs.26,250/- was awarded. Towards transportation etc., Rs.3200/- was paid. As regards pain and suffering, learned Tribunal appears to have supplemented by his opinion the medical opinion given by the doctor. He has rather, without any basis, assessed the disability to the extent of 70% on a hypothetical ground that since there was a loss of flesh on account of loss of supply of blood to the leg of the claimant, he would have suffered disability to the extent of 70%, whereas disability certificate given by the Medical Board indicated that the percentage of disability was only 55%. Learned Tribunal appears to be liberal in deciding this matter and has used the expression "the disability by the petitioner will pinch him for the rest of his life beyond imagination". Thus, he has awarded Rs.50,000/- on account of pain and suffering (past, present and future), Rs.30,000/- for shortening of leg by 1-1/2", based on the statement of Dr.Atul Sarin, and Rs.20,000/- for disability of 60-70%. On the other hand, the medical certificate issued by the Medical Board does not indicate any shortening of leg nor 70% disability. The accident took place way back in 1989 and the award was passed in 1990. Looking to the value of the money

at that time, amount of Rs.1,66,200/- cannot be said to be inadequate. Rather, the Tribunal has been liberal in awarding the amounts under different heads even without valid reason.

Accordingly, the FAO, being devoid of merits, is, hereby, dismissed.

August 9, 2006 **(UMA NATH SINGH)**
pk **JUDGE**